

HCS HB 573 -- SETTLEMENTS OF TORT CLAIMS

SPONSOR: McGaugh

COMMITTEE ACTION: Voted "Do Pass with HCS" by the Standing Committee on Judiciary by a vote of 7 to 4. Voted "Do Pass" by the Committee on Rules- Legislative Oversight by a vote of 10 to 3.

This bill provides that a time-limited demand to settle any claim for personal injury, bodily injury, or wrongful death must be in writing and sent by certified mail to the tortfeasor's liability insurer, and it must include various material terms specified in the bill. Additional information, as provided in the bill, must accompany the demand including authorizations to allow the party to obtain records from all employers and medical care providers. Upon receipt of a time-limited demand, a recipient may ask for clarification of the terms without it being considered a counteroffer or rejection of the demand.

After acceptance of the time-limited demand, the defendant may provide payment to the claimant in the form of cash, money order, wire transfer, cashier's check, draft or bank check, or electronic funds transfer. A claimant may require payment within a specified period of time, but cannot be less than 10 days after written acceptance of the time-limited demand.

This bill does not apply to offers made within 30 days of the trial.

This bill is similar to SB 213 (2017).

PROPOSERS: Supporters say that this is a basic fairness bill. Many records have to be obtained in a tort action, and a lot of it is time sensitive. This would give the defendant more time to go through the facts of the case, and it strikes a balance between both sides, to make this a more efficient process. This bill is narrowly tailored to situations when a claimant seeks to reach past the policy limit and when there is not enough time to turn the demand around. The result of that is an action for bad faith.

Testifying for the bill were Representative McGaugh; William (Clay) Crawford, Missouri Organization of Defense Attorneys & Shelter Insurance; Associated Industries of Missouri; Missouri Insurance Coalition; Property Casualty Insurers of America; and the American Family Insurance Group.

OPPOSERS: Those who oppose the bill say that this situation arises when an insured individual wants his or her insurer to pay out a claim but it refuses. When the insurer won't pay, it puts

the insured in a bad situation, because the individual can be sued above and beyond the policy limit; however, a lawsuit has to be filed for the policy limits to be discovered.

Testifying against the bill was David Zevan, Missouri Association of Trial Attorneys.